

From: [Doug Panzer](#)
To: [Nicole Galli](#)
Cc: [Manny Pokotilow](#); [Charles P. Goodwin, Esq.](#); [Ladonna Mahecha](#); [Allison White](#)
Subject: RE: EvE - jury instructions; verdict form
Date: Thursday, April 7, 2022 12:54:32 PM
Attachments: [Elmagin v. Chen et al - Joint Proposed Jury Instructions -Substantive Elements - DISCUSSION DRAFT.DOCX](#)
[Elmagin v. Chen et al - Joint Proposed Verdict Forms - DISCUSSION DRAFT.DOCX](#)

EXTERNAL EMAIL

Nicole,

Attached are Elmagin's proposed jury instructions and verdict forms. We are happy to have a discussion based on these.

I have significant doubt that we can reach agreement on any conversation based on the drafts you sent over. They have numerous issues, including imposing burdens/standards of proof that are not part of the law of this circuit and also being so complex as to simply result in confusion of all involved.

Doug

Douglas Panzer

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From: Nicole Galli <ndgalli@ndgallilaw.com>

Sent: Wednesday, April 6, 2022 6:46 PM

To: Doug Panzer <dpanzer@CRBCP.com>

Cc: Manny Pokotilow <mpokotilow@crbc.com>; Charles P. Goodwin, Esq. <cgoodwin@ndgallilaw.com>; Ladonna Mahecha <LMahecha@ndgallilaw.com>

Subject: RE: EvE - jury instructions; verdict form

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Doug,

I did express my concern about that on Monday to Alex. I also had been left with the understanding that the Court was not expecting us to try to reach agreement before tomorrow and that the Court was not going to issue a formal order on the issue . . . and then we got an order about it on Tuesday, in which the Court expressly stated:

1. No later than April 7, 2022, the parties shall file with the Clerk of Court joint proposed jury instructions on substantive issues and proposed verdict forms or special

interrogatories to the jury.

2. Each party shall also file proposed jury instructions, verdict forms or special interrogatories on those issues not agreed upon by the parties in their joint submission.

I do understand that these are lengthy documents and this will require much discussion, but felt like we must make an effort given the Court's order asking us to submit joint documents even *after* I raised my concerns with the Deputy.

Otherwise, to keep things moving, when can you send over your draft verdict form? And I take it that your draft hasn't changed since October? I wasn't even sure of that which is why I included a clean copy. FYI I do not anticipate any significant changes in our drafts (without us discussing them at least) but may tweak some language here and there for clarity.

thanks,

Nicole

From: Doug Panzer <dpanzer@crbcp.com>

Sent: Wednesday, April 6, 2022 6:29 PM

To: Nicole Galli <ndgalli@ndgallilaw.com>

Cc: Manny Pokotilow <mpokotilow@crbcp.com>; Charles P. Goodwin, Esq. <cgoodwin@ndgallilaw.com>; Ladonna Mahecha <LMahecha@ndgallilaw.com>

Subject: RE: EvE - jury instructions; verdict form

EXTERNAL EMAIL

Nicole,

We will review these documents. However, it is my understanding from my conversation with Alex Eggert that you told him on Monday by phone that you did not anticipate the parties could reach agreement in such a short period of time. He passed that on to me shortly thereafter and informed me of the judge's instruction that each side submit our respective versions. In view of that, the short time frame, your reservation of rights meaning that this is a potentially moving target, and the fact that we initially sent you our draft nearly six months ago but never received a substantive response, I cannot promise that we will have any ability to discuss this prior to Thursday's deadline.

Doug

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From: Nicole Galli <ndgalli@ndgallilaw.com>
Sent: Wednesday, April 6, 2022 6:25 PM
To: Doug Panzer <dpanzer@crbcp.com>
Cc: Manny Pokotilow <mpokotilow@crbcp.com>; Charles P. Goodwin, Esq. <cgoodwin@ndgallilaw.com>; Ladonna Mahecha <LMahecha@ndgallilaw.com>
Subject: RE: EvE - jury instructions; verdict form

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Doug,

Following up on my email below, attached is our draft Joint Verdict Form for review & discussion. If memory serves, you did not provide a draft Joint Verdict Form last fall, so we prepared ours from scratch.

I am generally at your disposal this evening or tomorrow after 10 am to discuss both the draft Joint Jury Instructions and the draft Joint Verdict Form. Please let me know when you (or whomever on your team is handling this) would like to discuss.

I should mention that both the draft jury instructions and draft verdict forms are works in progress and so we reserve the right to make to our versions should the parties not agree on a joint document.

thanks,

Nicole

From: Nicole Galli
Sent: Tuesday, April 5, 2022 11:15 PM
To: Douglas Panzer - Caesar Rivise, PC (dpanzer@crbcp.com) <dpanzer@crbcp.com>
Cc: Manny Pokotilow (mpokotilow@crbcp.com) <mpokotilow@crbcp.com>; Charles P. Goodwin, Esq. <cgoodwin@ndgallilaw.com>; Ladonna Mahecha <LMahecha@ndgallilaw.com>
Subject: EvE - jury instructions

Doug,

In light of the Court's order today that we must submit joint jury instructions on Thursday, if possible, attached please find our proposed jury instructions, along with a redline comparing ours to the last draft you provided to us back in October.

I am available to discuss these tomorrow (and Thursday if necessary).

thanks,

Nicole

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